

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

	X	
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MALIBU MEDIA, LLC,	:	
	:	Case No. 1:19-cv-07189-JGK
Plaintiff,	:	
	:	
vs.	:	
	:	
YI-TING CHEN,	:	
	:	
Defendant.	:	
	X	

**MOTION FOR ENTRY OF FINAL DEFAULT JUDGMENT
AGAINST DEFENDANT YI-TING CHEN**

Plaintiff, Malibu Media, LLC (“Plaintiff”), by and through undersigned counsel, and pursuant to Fed. R. Civ. P. 55, and Local Rule 55.2, hereby files its Motion for Entry of Final Default Judgment (“Motion”) against Defendant, Yi-Ting Chen (“Defendant”), and in support thereof, states:

1. This is a case for copyright infringement arising under United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).
2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).
3. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that Defendant’s acts of copyright infringement occurred using an Internet Protocol address (“IP address”) traced to a physical address located within this District, and therefore this Court has personal jurisdiction over defendant because (i) Defendant

committed the tortious conduct in this State, (ii) Defendant resides in this State, and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

4. Indeed, Defendant resides in the State of New York at 350 West 42 Street, Apt. 27G, New York, NY 10036.

5. On July 31, 2019, Plaintiff filed its Complaint in this action [CM/ECF 1].

6. On December 15, 2019, Plaintiff filed its Amended Complaint [CM/ECF 14].

7. Service of summons and Amended Complaint was obtained as follows:

Defendant	Date of Service, Type of Service
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Yi-Ting Chen	June 25, 2020, Individual Service
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8. Pursuant to New York Civil Practice Law and Rules §308, personal service on a natural person shall be made by delivering the summons within the state to the person to be served.

9. The Affidavit of Service [CM/ECF 35] describes personal service on the Defendant. Thus, service is appropriate.

10. Defendant has failed to plead or otherwise defend himself against Plaintiff's Amended Complaint.

11. A Clerk's Certificate of Default was issued as to Defendant Yi-Ting Chen on July 27, 2020 [CM/ECF 39].

12. Defendant is not an infant, an incompetent person or in active military service. *See* Decl. of Kevin T. Conway, Esq.

13. This Motion is based on the allegations in Plaintiff's Amended Complaint. Defendant has admitted all of the facts alleged therein by failing to plead or otherwise respond to the Amended Complaint. *See, e.g., Malibu Media, LLC v. Ofiesh*, No. 1:16-CV-202 (FJS/DEP), 2017 U.S. Dist. LEXIS 93463, at *3 (N.D.N.Y. June 19, 2017); *Greyhound Exhibitgroup, Inc. v.*

E.L.U.L. Realty Corp., 973 F.2d 155, 158 (2d Cir. 1992) (citation omitted); *see also Granite Music Corp. v. Ctr. St. Smoke House, Inc.*, 786 F. Supp. 2d 716, 726 (W.D.N.Y. 2011) (citation omitted).

14. This Motion is further based on the facts attested to in the Declaration of Kevin T. Conway, Esq., and the record of the proceedings and papers on file herein. These materials are sufficient to justify the requested relief.

WHEREFORE, Plaintiff, Malibu Media, LLC, respectfully requests entry of a final judgment as a result of default in favor of Plaintiff and against Defendant, Yi-Ting Chen, in the form of the Proposed Final Default Judgment and Permanent Injunction attached hereto, and for such other and further relief this Court deems just and proper. A *proposed* Order to Show Cause Why Court Should Not Enter Default Judgment Against Defendant Yi-Ting Chen is attached to this instant filing.

Dated: July 30, 2020

Respectfully Submitted,

By: /s/ Kevin T. Conway
Kevin T. Conway (KC-3347)
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Spring Valley, NY 10977
T: (845) 352-0206
F: (845) 352-0481
Email: ktcmalibu@gmail.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2020, I electronically filed the foregoing document with the Clerk of the Court and all parties using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document via U.S. Mail to the persons set forth in the Service List below.

By: /s/ Kevin T. Conway
Kevin T. Conway, Esq.

Service List
Yi-Ting Chen
350 West 42 Street
Apt. 27G
New York, NY 10036